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8 **RECEIVED**

9 UNITED STATES DISTRICT COURT

10 JAN 04 2006

NORTHERN DISTRICT OF CALIFORNIA

11 RICHARD D. WIERING
CLERK, U.S. DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

16 STEVE HEINZ,

17 Defendant.
18

No. CR 05-70935-PVT

[Proposed] ORDER GRANTING
REQUEST TO CONTINUE
PRELIMINARY HEARING OR
ARRAIGNMENT

19 Upon stipulation of the parties in open court on December 8, 2005, and good cause
20 appearing, the Court finds as follows:

21 1. The United States of America, defendant Steve Heinz and his attorney, Angela
22 Hansen, Esq., requested a continuance of the date set for preliminary hearing or indictment from
23 Thursday, December 8, 2005, to Thursday, February 2, 2006, at 11:00 a.m.

24 2. The parties stipulated that this continuance was necessary to give the parties adequate
25 time to attempt to resolve this matter, for the government to provide discovery, and for the
26 defense to meaningfully review the discovery and make a pre-charge decision regarding a
27

1 possible disposition in this matter.

2 3. The defendant was advised in open court, and acknowledged his understanding, that
3 under Rule 5.1(c) of the Federal Rules of Criminal Procedure, he was entitled to a preliminary
4 hearing within 10 days of his initial appearance unless an indictment is filed beforehand, and
5 pursuant to 18 U.S.C. § 3161(b) he was entitled to be indicted within 30 days of his arrest in this
6 matter. After consultation with his attorney, the defendant stated that he wished to waive those
7 rights and continue the hearing set for preliminary hearing or indictment until February 2, 2006.
8 The Court found that the defendant had provided a knowing and intelligent waiver of his rights
9 as set forth above.

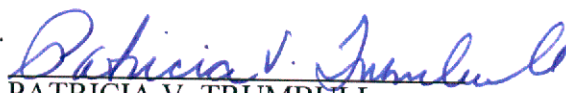
10 4. The court finds and the parties agreed that the ends of justice served by this
11 continuance outweigh the interests of the defendant and the public in a speedy indictment and
12 trial inasmuch as additional time was needed for the government to provide the defense with
13 discovery, for the defendant to meaningfully review that discovery, and for the parties to fairly
14 evaluate the possibility of a pre-charge resolution in this matter. Failure to grant the requested
15 continuance would deny counsel for both parties the reasonable time necessary for effective
16 preparation regarding these decisions taking into account the exercise of due diligence.

17 5. Finally, the Court finds good cause to extend the time limits under Rule 5.1(c)
18 pursuant to Rule 5.1(d). Accordingly,

19 IT IS HEREBY ORDERED that the date set for preliminary hearing or indictment is
20 continued from Thursday, December 8, 2005, to Thursday, February 2, 2006.

21 IT IS FURTHER ORDERED that the period of time from December 8, 2005 through and
22 including February 2, 2006 shall be excluded from the time within which an indictment must be
23 filed, for the reasons set forth above, pursuant to 18 U.S.C. § 3161 (h)((8)(A) considering the
24 factors set forth in § 3161(h)(8)(B)(i) and (iv).

25 Dated this 4 day of January, 2006.

26 
27 PATRICIA V. TRUMBULL
28 United States Magistrate Judge